In the Supreme Court of the United States

OCTOBER TERM, 1971

No. 71-646

SYSTEM COUNCIL T-4, PETITIONER

v.

NATIONAL LABOR RELATIONS BOARD

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

MEMORANDUM FOR THE NATIONAL LABOR RELATIONS BOARD IN OPPOSITION

We invite the attention of the Court to the following facts, which show that the petition was filed out of time:

The judgment of the court of appeals (Pet. App. A2) was entered on July 19, 1971, and a petition for rehearing was denied on August 11, 1971 (Pet. App. A1). No extension of time for filing a petition for certiorari was obtained, and the petition was not filed

until November 11, 1971, 92 days after the court of appeals denied a petition for rehearing. Since the 90-day period for filing a p..ition in 28 U.S.C. 2101 (c) is jurisdictional, the petition for a writ of certiorari should be denied. See *Teague* v. *Regional Commissioner of Customs, Region II*, 394 U.S. 977; *Scofield* v. *National Labor Relations Board*, 394 U.S. 423, 427; *Williams* v. *United States*, 400 U.S. 909.

Respectfully submitted.

ERWIN N. GRISWOLD,
Solicitor General.

PETER G. NASH,
General Counsel,
National Labor Relations Board.

DECEMBER 1971.

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